

REMARKS

Applicant thanks the Examiner for consideration given the present application. Claims 1-21 are currently pending. Claims 1-3 and 6-20 have been amended and claim 21 has been added through this reply. Claims 1 and 11 are independent. Applicant respectfully requests reconsideration of the rejected claims in light of the amendment and remarks presented herein, and earnestly seeks timely allowance of all pending claims.

Rejection Under 35 U.S.C. § 112, Second Paragraph

The Office Action rejects claims 1-20 under 35 U.S.C. § 112, second paragraph. Claims 1 and 8-20 are amended to obviate the rejection. Please note, puppy disease is a literal translation of the original Danish Patent Application and is more commonly known in English as mink distemper virus. Sticky kits is a well known disease among mink breeders referring to greasy kits of mink. No new matter is added. Withdrawal of the rejection is respectfully requested.

The Claims Define Patentable Subject Matter

The Office Action rejects claims 1-20 under 35 U.S.C. § 103(a) over U.S. Patent No. 6,582,713 to Newell et al. (Newell); and PCT National Publication No. WO 99/13891 to Drinkwater et al. (Drinkwater); rejects claims 1-4 and 6-10 under 35 U.S.C. § 103(a) over Publication "Homeopathic Domestic Medicine" to Smith; rejects claims 1-3 and 5-20 under 35 U.S.C. § 103(a) over Newell, Drinkwater and U.S. Patent No. 6,528,040 to Pearson et al.

(Pearson) and Publication “Bioavailability of Seaweed Iodine in Human Beings” to Aquaron et al. (Aquaron). These rejections are respectfully traversed.

Independent claim 1 recites “supplement preparation for treatment of infectious disease in animals including human beings on a daily basis by ingestion including a) a first active component in form of biologically accessible silver, and b) a second active component of cartilage, and any conventional additives.” Independent claim 11 recites “a method for health-promoting treatment of infectious diseases for animals including human beings by daily treatment with a preparation comprising: adding to animal feed or drinking water the preparation including (a) a first active component in form of biologically accessible silver; and (b) a second active component of cartilage, and any additional active component and/or conventional accessory agents or additives; and ingesting the preparation.” The applied references fail to teach or suggest the recited features of independent claims 1 and 11.

Newell discloses a composition including cyanoacrylate polymer sealants having silver or insulin incorporated therein, where the compositions were found to be particularly effective in wound healing. *See column 5, lines 46-59.* The composition, most notably, in applying silver and/or insulin at the site of the wound in the controlled release manner using polymerized cyanoacrylate to provide wound healing activity and/or reduction in scarring. *See column 14, lines 42-56.* Newell uses silver which may be colloidal for the treatment of wounds. Newell does not propose to use silver in a supplementary preparation to be given to animals during the complete lifetime of said animal as a prophylactic antibiotic and immune system supporting treatment.

Drinkwater discloses a composition comprising shark cartilage that may be mixed with various components for various treatments. *See page 6, line 11 through page 9, line 28.* Drinkwater primarily teaches the use of shark cartilage for the treatment of wounds. This is also a treatment generally that has a limited duration and is not a treatment for the entire lifetime of the human or animal. Furthermore, Drinkwater does not suggest treatment with Silver (Ag).

Since Newell is directed to wound healing and the reduction of scar formation involving the external application of silver to the site of a wound, there is no rationale for one of ordinary skill to combine Newell's silver with the shark cartilage of Drinkwater to treat infectious diseases in animals on a daily basis by ingestion.

JT Smith teaches wound treatment with hepar sulphuris. Again this is a treatment for a limited period of time and not with Silver.

Pearson teaches wound treatment with iodine. This is also a treatment for a limited period of time and not with silver.

Aquaron teaches use of Laminaria as a source of bioavailable iodine. Aquaron does not teach treatment with silver for the entire lifetime of an animal or human.

It appears that none of the applied references discloses a preparation containing biologically accessible silver intended to be given to an animal or human every day for their entire lifetime. Newell merely uses a silver preparation for the antibiotic treatment of wounds, which has a limited duration.

It is not obvious to the skilled person to use a preparation containing silver on a daily basis as silver is known to accumulate in the organism. Thus, if silver is used every day in a dose

known to antibioticly efficient, the expected result would be severe accumulation of silver, specially in the liver, and hence will severely deteriorate the health of the animal.

None of the applied references discloses a combination of silver and cartilage, and least of all a synergistic effect by such a combination. The present invention is based on such a synergistic effect combining the antibiotic effect of silver with the strengthened immune system obtained by the cartilage.

Also, when silver is given in a very low dose which is safe for daily intake, but also without a detectable antibiotic effect, the effect of such a dose can be increased to an efficient level when the silver is given together with an immune strengthening amount of cartilage.

Thus, it is now possible to give livestock animals a prophylactic dose of the combination preparation as a supplement to the daily feed or in the drinking water.

The health-supporting effect of the inventive supplement preparation is demonstrated by the experimental results in example 9 of the present application. The results obtained are based on an independent classification of mink furs obtained from the treated animals. High classification of the furs is a clear indication of an excellent statement of health.

The results in example 9 were obtained by the applicant, who was able to make experiments with his own mink herd because minks are not supposed to serve as human food. Experiments with hens/chickens and pigs/hogs require special authorization from the authorities due to concerns with silver accumulation.

An experiment with pigs/hogs has in fact been going on. The results so far appear to be satisfactory, but the final report has not yet been prepared. However, even the fact that the hogs

remain healthy after a long period of daily ingestion of silver must be considered rather surprising in the light of the well-known problems by livestock breeding.

A preparation containing biologically accessible silver as a daily supplement was not known. Such preparations were only in use in connection with the treatment of an actual disease or wounds during a limited period of time.

The skilled person had a prejudice against daily use due to the risk of silver accumulation in the body, especially the liver, and would believe that a safe dose would not lead to any beneficial effect.

Furthermore, the applied references have no rationale of making a preparation containing both silver and cartilage.

Smith, Pearson and Aquaron fail to cure the deficiencies of Newell and Drinkwater. Accordingly, the applied references, alone or in any combination, fail to teach or suggest the recited features of independent claims 1 and 11.

For at least the reasons stated above, independent claims 1 and 11 are patentably distinct from the applied references. The dependent claims are at least allowable by virtue of their dependence on corresponding allowable independent claims 1 and 11.

Accordingly, withdrawal of the rejection of the claims based on the applied references is respectfully requested.

New Claim 21 is Patentable

New claim 21 is added. New claim 21 is patentable at least due to its dependence on allowable independent claim 1 and for the additional features it recites.

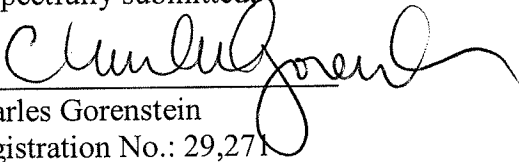
Conclusion

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Obert H. Chu, Reg. No. 52,744 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§ 1.16 or 1.147; particularly, extension of time fees.

Dated: July 7, 2008

Respectfully submitted,

By 
Charles Gorenstein
Registration No.: 29,271
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant